THE CITY OF SAN DIEGO

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SAN DIEGO REGIONAL WATER QUALITY CONTROL BOARD

May 29, 2007

Julie Chan, Ben Tobler, Christina Arias
9174 Sky Park Court, Suite 100
San Diego, CA 92123-4340

Subject: Bacteria-1 and Chollas Creek Dissolved Metals TMDLs

Dear Messrs. Chan, Tobler, and Arias:

Thank you for the opportunity to comment on the subject regulations. Although some of the following comments are repetitive from our previous comments on these regulations, I am pleased to recognize Regional Board staff for the headway made on others.

1. The City continues to request that the Regional Board explicitly recognize in its CEQA documentation that treatment and/or diversion (e.g., via infiltration) of storm water will be required to comply with the proposed load reductions given the ubiquitous, legal, and uncontrollable sources of the pollutants. While Board staff has taken a step closer to doing this by listing these strategies as reasonably foreseeable, the impact analysis of this construction is inadequate.

2. The City continues to request that the Regional Board provide specificity on how compliance will be evaluated in terms of the number of Notices of Violation and/or fines that dischargers would be subject to if compliance is not obtained (e.g., one fine per outfall per day, one fine per tributary, one fine per gallon). I am pleased that the compliance issue with regard to where compliance would be measured (e.g., at storm water outfalls and/or locations downstream) as described in number 5 below.

3. The City continues to request that the Regional Board dictate a design storm or allowable number of exceedences in the Bacteria-1 TMDL. Such an allowance is now recognized as at least a planning goal in the Chollas Creek Dissolved Metals TMDL as one exceedence every three years since this frequency is allowed by the California Toxics Rule; however, the Bacteria-1 TMDL provides no such guidance from the state or federal government. Without this direction, the City is unable to design with certainty towards compliance its treatment and infiltration facilities and the Regional Board is unable to evaluate the environmental impacts of building the facilities. Moreover, since the Technical Report for the Chollas

Creek Dissolved Metals TMDL indicates that 99.7% of the metals loading occurs during wet weather (page 35) and since the bacteria TMDL allows for zero anthropogenic-related bacteria, it is clear that treatment and/or infiltration of wet weather flows will be essential to compliance.

4. The City has prepared a reasonable 'Tiered" approach to implement the TMDLs. The approach entails implementing, as experiments, various combinations of non-structural BMPs, and structural BMPs on public property and voluntary incentive programs for private property owners. The goal of this part of the approach is to 1) determine whether, contrary to existing data, widespread treatment and/or infiltration of storm water is not required to comply with the TMDLs and 2) determine the maximum effectiveness of these Tier I and II in order to minimize the impacts of constructing Tier III (infiltration and treatment) BMPs on developed and privately owned land. The City requests that the Regional Board commit to a formal re-evaluation provision in the TMDL to that final load reductions and compliance strategies can be re-assessed after collecting data from Tier I and Tier II efforts.

5. Regional Board staff has made a number of statements (referenced in previous comments) which provide a *de facto* prohibition on building treatment or infiltration works below storm drain outfalls for purposes of complying with the TMDLs. The City asks that the Regional Board formally state its position on where BMPs can be located to comply with these TMDLs.

I have recently been invited by Regional Board staff to submit a proposal for what kind of BMP the City would like to build below outfalls. In response, I submitted the attached graphics and was told by Regional Board staff that these proposals were, in concept, acceptable, at least in terms of allowing receiving waters/Waters of the State to convey waste and in terms of achieving Wasteload Allocations below storm drain outfalls and still complying with the TMDLs. Please acknowledge that these solutions are conceptually acceptable. Based on a quick analysis, these solutions might be available for approximately 480 of the 800 outfalls within Chollas Creek.

Thank you again for the opportunity to comment. If you have any questions, please feel free to call me at (619) 525-8644.

Sincerely,

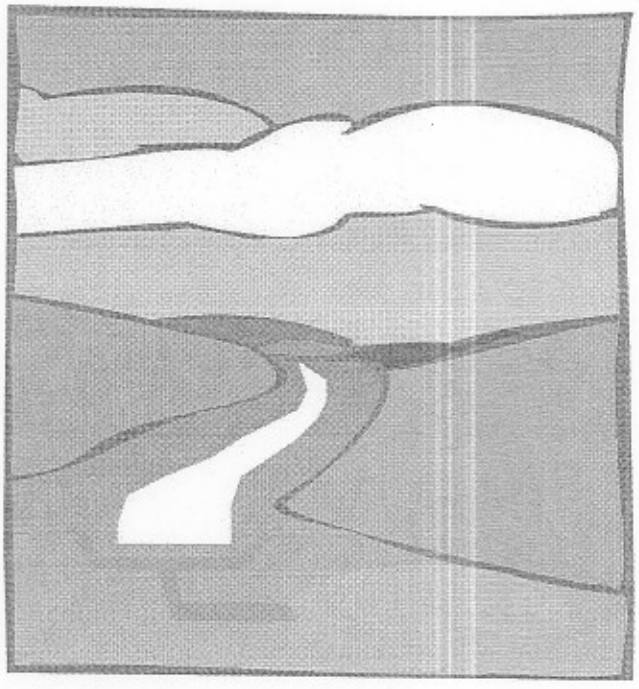
Chris Zirkle
Deputy Director

Attachment 1: "Canyon Mouth Option"
Attachment 2: "Base of Canyon Wall Option"

Attachment 1

Canyon Mouth Option

- In this example, runoff is captured by a headwall and piped to a subsurface infiltration pit.
- The gold area represents the footprint of the pit; located to avoid impacts to receiving waters and sewer lines.
- Water upstream of the headwall may convey waste and maynot meet the WLAs



Attachment 2

Base of Canyon Wall Option

- In this example, runoff is intercepted at the base of the canyon wall, below the storm drain outfall but before it reaches the main channel in the canyon.

  Water upstream of the headwall may convey waste and may not meet the WLAs